

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

**MDL No. 2804
CASE No.: 1:17-MD-2804**

This document applies to:

**MICCOSUKEE TRIBE OF INDIANS
OF FLORIDA, a federally recognized
Indian Tribe**

Plaintiff,

v.

**AMERISOURCEBERGEN DRUG
CORPORATION; CARDINAL HEALTH,
INC.; McKESSON CORPORATION;
PURDUE PHARMA L.P.; PURDUE
PHARMA, INC.; THE PURDUE
FREDERICK COMPANY, INC.; TEVA
PHARMACEUTICALS USA, INC.;
CEPHALON, INC.; JOHNSON &
JOHNSON; JANSSEN
PHARMACEUTICALS, INC.; ENDO
HEALTH SOLUTIONS INC.; ENDO
PHARMACEUTICALS, INC.;
ALLERGAN FINANCE, LLC; ACTAVIS
PHARMA; ACTAVIS, LLC; INSYS
THERAPEUTICS, INC.;
MALLINCKRODT LLC; WALGREEN
CO.; CVS HEALTH CORP.; and CVS
PHARMACY INC.,**

Defendants.

Case No.: 19-cv-20618-DPG

**THE MICCOSUKEE TRIBE OF INDIANS OF FLORIDA'S MOTION FOR
EXTENSION OF TIME TO COMPLY WITH ORDER REGARDING SHORT FORM
FOR SUPPLEMENTING COMPLAINTS AND AMENDING DEFENDANTS**

Plaintiff, The Miccosukee Tribe of Indians of Florida, moves this Honorable Court for an order extending the deadline to file Plaintiff's "Short Form for Supplementing Complaints and Amending Defendants" pursuant to the Court's *Opinion and Order* ("*Short Form Order*") dated January 18, 2019 (ECF No. 1282).

The *Short Form Order* provided all plaintiffs with MDL cases, "other than those identified in paragraphs 2 and 3 of CMO 1," an extension until March 16, 2019, "to amend their pleadings as a matter of right for matters both relying on and beyond the ARCOS data." *Short Form Order*, (ECF No. 1282, p. 2). The procedure set out in the *Short Form Order* allows Plaintiffs to add or remove Defendants based on ARCOS data, and to incorporate by reference the common factual allegations and RICO claims set forth in the pleadings in *County of Summit, Ohio*, case number 1:18-op-45090. *Id.* at 3.

Plaintiff intends to utilize the procedure set out by the *Short Form Order*, but respectfully request that its deadline to do so be extended until 60 days after the Court's final ruling on the pending Motions to Dismiss in the *Muscogee (Creek) Nation* 1:18-op-45459 and *The Blackfeet Tribe of the Blackfeet Indian Reservation*, 18-op-45749 tribal bellwether cases ("Tribal Bellwether Complaints"). First, the *Short Form Order* was issued on January 18, 2019 and provided 2 months for plaintiffs to comply.

However, at the time the Court issued this Order, Plaintiff was not yet involved in this MDL. Plaintiff was brought into this case via Conditional Transfer Order (CTO-82) on March 8, 2019, and has now been opened in this Court as Case No. 1:19-op-45121-DAP. Plaintiff's counsel is making a good faith effort to review the ARCOS database to ensure that applicable Defendants are incorporated into this case without overreaching and adopting a "shotgun" approach to naming parties. Moreover, Plaintiff anticipates that the *Short Form Order* will need to be revised to allow

the Plaintiff, if it chooses, to incorporate by reference the common factual allegations and claims set out in the Tribal Bellwether Complaints.

The claims and factual allegations contained within the Tribal Bellwether Complaints are more appropriate for incorporation by reference by Plaintiffs than those in the *Summit County* Complaint. The Tribal Bellwether Complaints include different claims, factual allegations, and legal issues than the *Summit County* complaint – e.g., *Blackfeet* pled federal common law public nuisance, whereas *Summit County* did not; in the Motions to Dismiss, the Tribal Bellwethers, as sovereigns, have different standing arguments than *Summit County*; and as Tribes, there are factual allegations and arguments regarding the tribal healthcare delivery system, including the role of Indian Health Services (“IHS”), that are unique to Tribes. Therefore, it is more appropriate that Plaintiff incorporate the claims and allegations from the Tribal Bellwether complaints, rather than trying to shoehorn the *Summit County* claims and allegations into Plaintiff’s Complaint.

CONCLUSION

For all the above reasons, Plaintiff respectfully requests that this Honorable Court grant its Motion to Extend the March 16, 2019 deadline to 60 days after the Court issues its final ruling on the pending Tribal Bellwether Motions to Dismiss, and to stay Plaintiff’s deadline to file its Short Form Complaint while the briefing on this motion is pending. Attached as Exhibit A is a proposed order granting this Motion for the Court’s consideration and convenience.

Respectfully submitted on March 18, 2019.

Respectfully submitted,

By: /s/ Adam M. Moskowitz

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Attorneys for Plaintiff and the Class

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will serve copies upon all counsel of record.

/s/Adam M. Moskowitz
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